



The Commonwealth of Massachusetts

Department of Revenue

Leveeett Saltonstall Building,

100 Cambridge Street, Boston 02204

L. JOYCE HAMPERS
COMMISSIONER

December 3, 1982

You inquire about the application of the sales and use taxes to sales of printed matter by

("Company") and to the Company's purchases of paper and other materials that become a part of the printed matter the Company sells.

The Company uses a word processing machine to compose and print letters to be mailed to designees of its clients. Typically, a client brings the Company the basic text of a solicitation letter, and the names and addresses of prospective customers to whom the letter will be sent. The Company uses its word processing machine to print a letter to each addressee. (The letters are often personalized by inclusion of information unique to an addressee or class of addressees.) The Company also prints any enclosures to be sent with the letters as well as the envelopes in which they will be mailed. It then delivers the printed matter to a Massachusetts mailing house, which folds the letters and inserts the letters and enclosures in the envelopes. The mailing house then delivers the letters to a post office for mailing (or, occasionally, ships the letters directly to the client, which itself arranges the mailing).

The Company bills its customers separately for (1) materials that it purchases for incorporation into the printed matter it sells; (2) "computer processing;" (3) "professional copy and coordination;" and (4) the mailing services described above.

December 3, 1982

You state that by far the greater portion of the printed matter sold by the Company is mailed to out-of-state addressees. You also state that in some instances the Company's client provides the paper and envelopes imprinted by the Company.

"Sale" is defined for sales and use tax purposes as including:

"(a) Any transfer of title or possession, or both, exchange, barter, lease, rental, conditional or otherwise, of tangible personal property for a consideration, in any manner or by any means whatsoever.

(b) The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting.

/and/

(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication." (G.L. c. 64H, s. 1(12).)

In determining the sales price of property on which the sales tax is based, no deduction may be taken on account of the cost of materials used, labor or service cost, or other expenses, and any amount paid for any services that are a part of a sale must be included (G.L. c. 64H, s. 1(14)).

General Laws Chapter 64H, Section 6(ff) provides an exemption from the sales and use taxes for:

"Sales of printed material which is manufactured in the Commonwealth to the special order of a purchaser, to the extent such material is delivered to an interstate carrier, a mailing house or a United States Post Office for delivery or mailing to a purchaser located outside the commonwealth or to a purchaser's designee located outside the Commonwealth."

Sales of materials that become an ingredient or component part of tangible personal property to be sold are also exempt (G.L. c. 64H, s. 6(r)).

December 3, 1982

Based on the foregoing, it is ruled that:

1. The sales or use tax applies to the Company's sales of printed matter that is mailed to a Massachusetts addressee or shipped by the mailing house to a Massachusetts client of the Company, whether the Company or the client provides the paper and other materials used in the printing. The sales price of the printed matter on which the tax is based includes the charges imposed by the Company for materials, "computer processing," and "professional copy and coordination." It also includes the Company's charge for the mailing services, except for any separately-stated postage.

2. The Company's sales of printed matter that is mailed by the mailing house to out-of-state addressees of a client are not subject to the sales or use tax.

3. The Company's purchases of paper and other materials that become part of the printed matter it sells are not subject to the sales or use tax; it may give an exempt use certificate (Form ST-12) in lieu of paying the tax on its purchases of such items.

You state that it is difficult for the Company to determine precisely what percentage of the printed matter it sells is to be sent to out-of-state addressees. You therefore request a ruling that the Company may use a periodic statistical sampling of its sales to determine the portion of its sales that is taxable.

General Laws Chapter 64H, Section 9 and General Laws Chapter 64I, Section 11 provide:

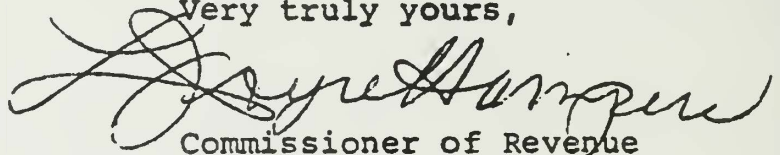
"Upon application of a vendor, the commissioner may issue a classified permit establishing such vendor's percentage of exempt sales. Such classified permits may be amended or revoked as to classification whenever the commissioner shall determine that the percentage of exempt sales is inaccurate or that such classification is not appropriate."

The Company may apply for a classified permit establishing its percentage of exempt sales by writing to the Department of Revenue's Division of Audit, 215 First Street, Cambridge, Massachusetts 02142.

December 3, 1982

It is the practice of the Department to issue a classified permit only after conducting a complete audit to ascertain the vendor's percentage of exempt sales. A classified permit does not relieve a vendor of his obligation to collect the proper amount of tax from his customer.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Seymour Hanger", written in a cursive style.

Commissioner of Revenue

LJH:JXD:mf

LR 82-116